

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

LUPERCAL LLC,

Plaintiff

v.

CHARLES SCHWAB & CO., INC.,

Defendant

Case No. 6:21-cv-00199

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Lupercal LLC (“Plaintiff” or “Lupercal”), through its attorneys, files this Complaint for patent infringement against Charles Schwab & Co., Inc. (“Defendant” or “Charles Schwab & Co.”) and alleges as follows:

THE PARTIES

1. Lupercal is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Dallas, Texas.
2. Upon information and belief, Defendant Charles Schwab & Co. is a corporation organized and existing under the laws of the state of California, with a place of business at 2309 Gracy Farms Ln, Austin, Texas 78758.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

6. Venue is proper in this District under 28 U.S.C. § 1400(b), because Defendant has committed acts of patent infringement in this District and has an established place of business in this District. Specifically, Defendant maintains a corporate office at 2309 Gracy Farms Ln, Austin, Texas 78758. In addition, Plaintiff has suffered harm in this District.

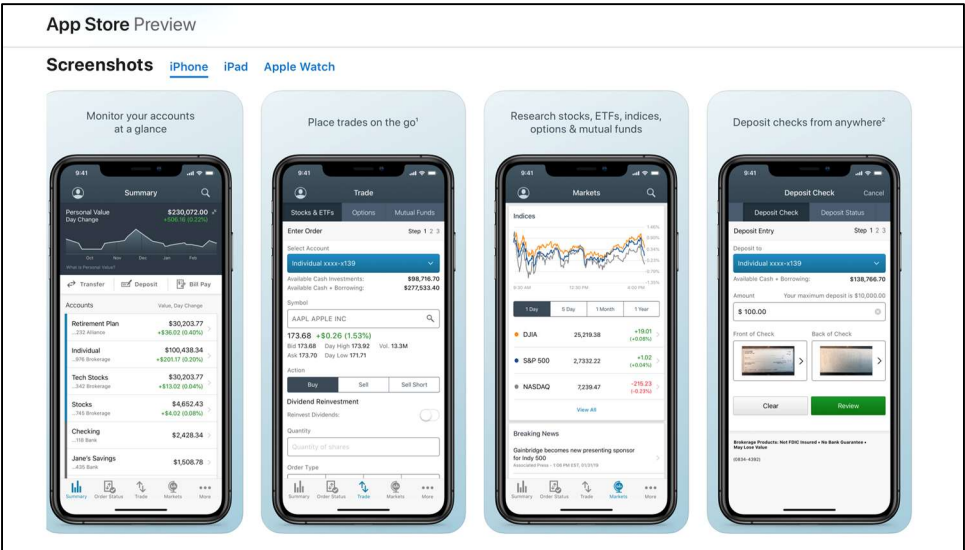
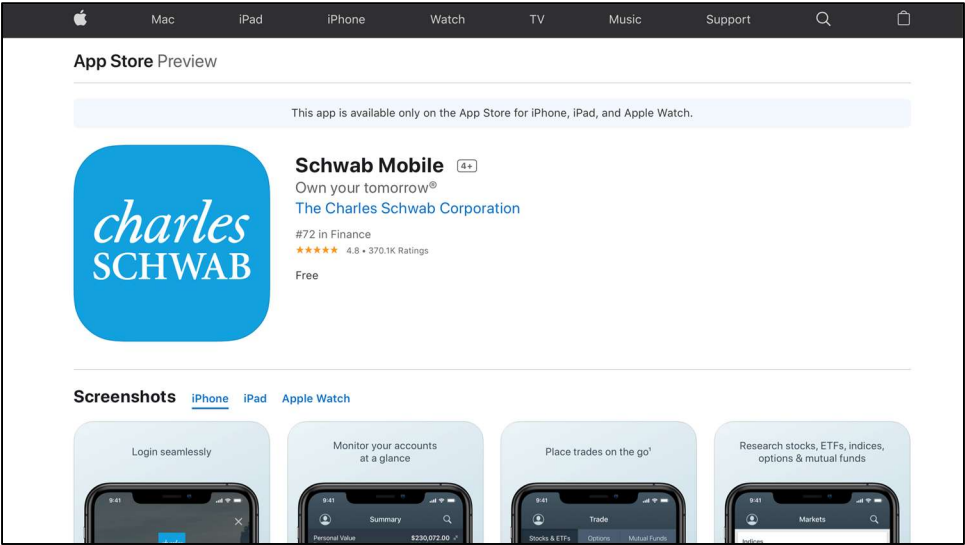
COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 9,386,094)

7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016.

9. The ‘094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant provides the Schwab Mobile App for use with Apple iOS devices and Android devices, which is available for download from Apple’s iTunes App Store and Google Play Apps:



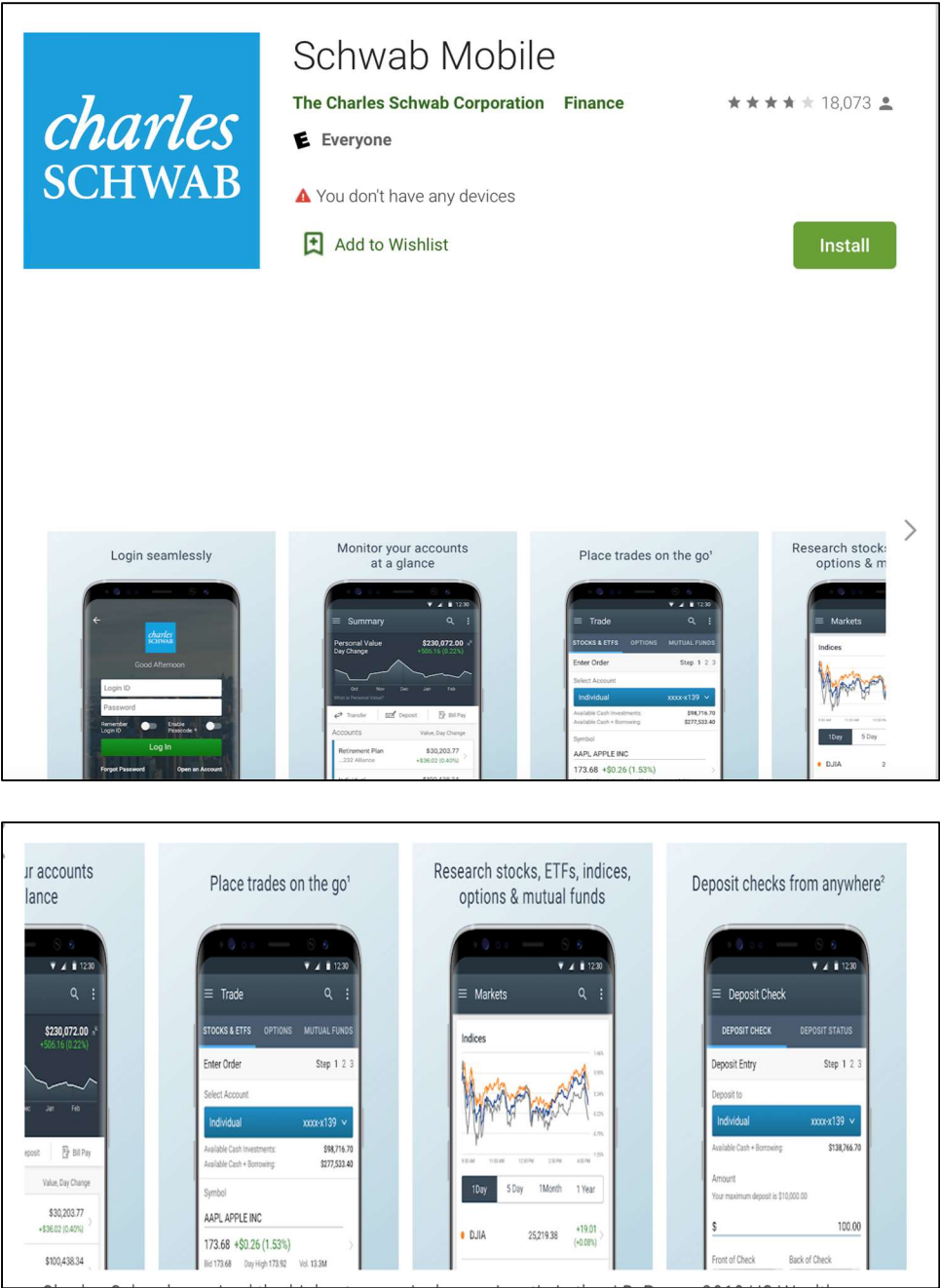
App Store Preview

Charles Schwab received the highest numerical score in a tie in the J.D. Power 2019 US Wealth Management Mobile App Satisfaction Study of customers' satisfaction with their wealth management mobile app. Visit jdpower.com/awards
Manage your money on the go.

Take charge of your financial future with Schwab's mobile app¹ for iPhone®, iPad® and Apple Watch®. Monitor your accounts, trade, research investments, and follow today's market news—whenever and wherever you want.

- Manage your brokerage, Schwab Bank, 401(k) and other accounts
- Trade/edit/cancel Stock, ETF, Mutual Fund and multi-leg option orders²
- Login using Apple's Face ID®, Touch ID®, or Passcode
- Deposit Checks via Schwab Mobile Deposit™³
- Protect yourself with the ability to quickly lock and unlock your Schwab Bank Visa® Platinum Debit Card
- Open new brokerage accounts and new Schwab Bank accounts
- Get real-time Trade Notifications
- Monitor your Schwab Visa Platinum® Debit card activity by setting custom alerts
- Access Schwab Podcasts, videos, and more in Media Center
- Enjoy auto-updating Watchlists (synchronized with Schwab.com)
- Add, edit, pay, or cancel Bill Pay payments for Schwab Bank, SSB

<https://apps.apple.com/us/app/schwab-mobile/id407358186?mt=8>



Manage your money on the go.

Take charge of your financial future with Schwab's mobile app¹ for Android™. Monitor your accounts, trade, research investments, and follow today's market news—whenever and wherever you want.

- Manage your brokerage, Schwab Bank, 401(k) and other accounts
- Trade/edit/cancel Stock, ETF, Mutual Fund and multi-leg option orders ²
- Login using your fingerprint or Passcode
- Deposit Checks via Schwab Mobile Deposit™ ³
- Protect yourself with the ability to quickly lock and unlock your Schwab Bank Visa® Platinum Debit Card
- Open new brokerage accounts and new Schwab Bank accounts
- Get real-time Trade Notifications
- Monitor your Schwab Visa Platinum® Debit card activity by setting custom alerts
- Access Schwab Podcasts, videos, and more in Media Center
- Enjoy auto-updating Watchlists (synchronized with Schwab.com)
- Add, edit, pay, or cancel Bill Pay payments for Schwab Bank

<https://play.google.com/store/apps/details?id=com.schwab.mobile&pcampaignid=pcampaignidMKT-Other-global-all-co-prtnr-py-PartBadge-Mar2515-1>

11. The Schwab Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

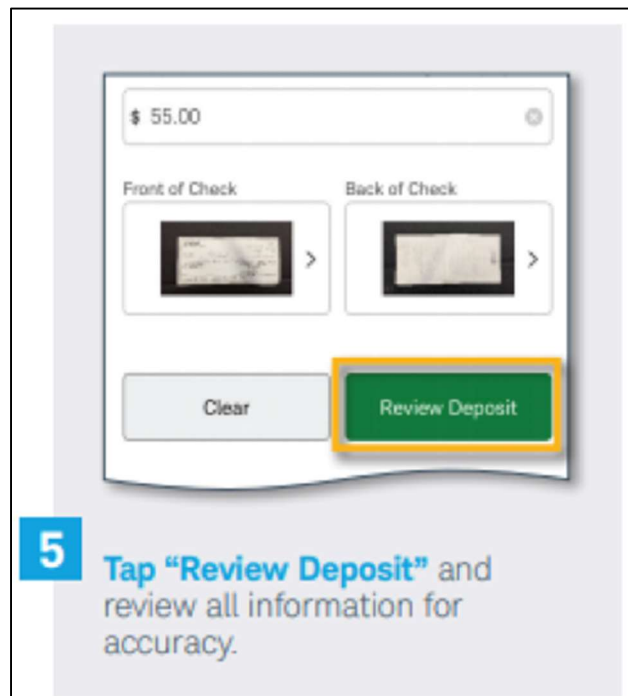
12. The photo of the front and back is manually taken by the user – as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

5. Take clear pictures of both sides of your check. The back of the check should be endorsed with the signature of the payee.

Tips for taking successful pictures

- Do: Make sure that your picture is in focus and that the entire check is in view.
- Do: Ensure the check is well within the blue guidelines (smaller image is okay). The check image should not touch the blue guidelines.
- Do: Take a picture of your check in a well-lit area. A dark, nonreflective background is best.
- Do: Ensure there are no shadows crossing the check as you take the picture.
- Do: Take a picture where you have good cell coverage.
- Don't: Have clutter around the check when taking a picture.
- Don't: Wrinkle or fold the check.

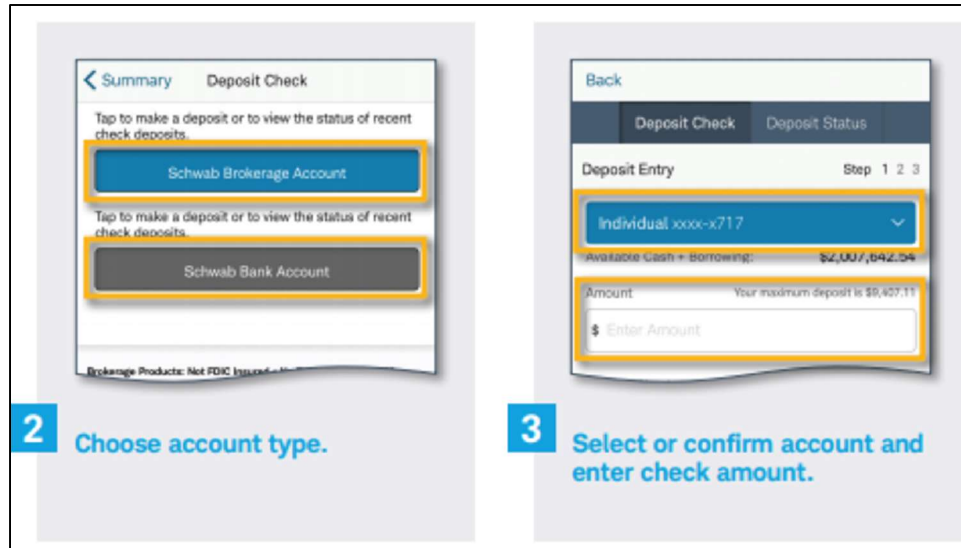
https://www.schwab.com/public/schwab/investing/pricing_services/mobile/schwab_mobile_deposit



<https://www.schwab.com/public/file/P-8006846/sls62839.pdf>

13. After selecting an account to deposit the check to, the user enters the amount of the check.

3. If you have multiple Schwab and Schwab Bank accounts, you'll be asked to indicate your choice. Please note that you cannot divide an individual check among two or more accounts.
4. Enter check amount.



14. Upon being accepted by the user (via the Schwab Mobile App), the application pre-processes the front and back images to produce and front and back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the Schwab Mobile App) separate from the user device (user's smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

15. Defendant controls the operation and use of the Schwab Mobile App and encourages its customers to use the Schwab Mobile App to deposit checks to the customer's accounts with Defendant. The Defendant's Schwab Mobile App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

16. At least by developing, distributing, operating, promoting, and encouraging the use of the Schwab Mobile App, Defendant encourages its customers to use the Schwab

Mobile App to practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

17. Upon information and belief, defendant has infringed and continues to infringe one or more claims, including claim 42, of the '094 Patent by developing, distributing, operating, promoting, and encouraging the use of the Schwab Mobile App in the United States without authority. Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

18. Defendant has been on notice of the '094 Patent as least as early as January 11, 2019 when it received a notice letter from Plaintiff, which included a claim chart comparing the '094 Patent claims to the Schwab Mobile App.

19. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool

controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for the use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

20. As indicated above, the Schwab Mobile App enables account holders to deposit check electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

21. More particularly, the Schwab Mobile App is a computer implemented method performed by an image submission tool on a user device.

22. In the process of using the Schwab Mobile App, the computer implemented method causes the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images.

23. In the process of using the Schwab Mobile App, the computer implemented method causes the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images.

24. In the process of using the Schwab Mobile App, the computer implemented method causes the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-

processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

25. In the process of using the Schwab Mobile App, the computer implemented method causes the image submission tool to enable a user to submit the one or more pre-processed images.

26. In the process of using the Schwab Mobile App, the computer implemented method causes the image submission tool to transmit the one or more pre-processed images.

27. Lupercal has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Lupercal requests that this Court enter judgment against Defendant:

- A. declaring that the Defendant has infringed the '094 Patent;
- B. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;
- C. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
- D. granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: March 3, 2021

Respectfully Submitted

/s/ *Raymond W. Mort, III*

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